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PART III.

Legislative Measures and Rules thereunder.

(REGULATION No. IV OF 1908.)

THE MYSORE VILLAGE OFFICES REGULATION.

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(REGULATION No. IV OF 1908.)

THE VILLAGE OFFICES REGULATION.

RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 16TH OCTOBER 1908.

A Regulation to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Village Offices Regulation, 1908."

(2) It extends to the whole of Mysore, provided that Government may, by notification in the official Gazette, exclude any local area from its operation and may, in like manner, amend or cancel such notification.

(3) It shall come into force from such date as may be notified by Government in the official Gazette.

Repeal of rules and orders; saving of rights already acquired.

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired, or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred, under the said rules and orders.

Disposal of suits, etc., pending at commencement of Regulation.

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Definitions.

4. In this Regulation, unless there is something repugnant in the subject or context,—

"Village." "Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office." "Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order, or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos. Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may, in like manner, amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer." "Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village office.

"Emoluments." "Emoluments" means and includes—

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the Government.

"Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"Deputy Commissioner."

"Assistant Commissioner" means an Assistant Commissioner in charge of a division of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal, in so far as such cases are concerned.

"Assistant Commissioner."

5. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Emoluments of village offices inalienable, impartible and not liable to attachment.

Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under section 22, nothing contained in this section shall be deemed to affect transfers, partitions or encumbrances, as between different members of a hakdar's family.

Proviso.

6. (1) The Government may, with reference to rules made in this behalf under section 22, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and may also direct that any village office in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist, and that new offices shall be created for the new village or villages.

Villages may be grouped, amalgamated or divided.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Assistant Commissioner shall, subject to such rules as Government may make in this behalf under section 22, select the persons whom he may consider the best qualified from among the last holders of the offices which have ceased to exist or the members of their families.

Selection of persons to fill new offices.

(3) The Government may also direct that the number of village offices attached to a village or the number of village officers shall be—

(*a*) reduced, and thereupon the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

Reduction or increase of village offices or village officers.

or (*b*) increased, in which case the Deputy Commissioner or Assistant Commissioner shall select the best qualified from among the members of the families of the existing officers.

7. (1) The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or for incapacity or for non-residence in the village, except when such non-residence is permitted by the Deputy Commissioner, or for any other sufficient cause, provided that any order of dismissal or removal passed by an Assistant Commissioner shall be subject to the confirmation of the Deputy Commissioner.

Power to punish village officers; procedure to be followed; and mode of recovering fines imposed.

(2) The Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine, or subject to the confirmation of the Deputy Commissioner or Assistant Commissioner, suspend any holder of a village office whether in an unalienated or alienated village for misconduct or neglect of duty.

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorized in that behalf by a commission issued by the Government in the form of schedule A, exercise in the village aforesaid and in respect of all or any particular offices specified and without prejudice to the exercise by the Deputy Commissioner,

Assistant Commissioner, Amildar or Deputy Amildar of the powers respectively vested in them by sub-sections (1) and (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those sub-sections, as may be conferred upon him by the commission.

(4) The officer or person taking action against a village officer under any of the preceding sub-sections shall hold the enquiry himself, record his proceedings in writing and furnish a copy of his order to such village officer. When such order is passed by the holder of a commission under sub-section (3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record or for confirmation, as the case may be.

(5) Subject to any rules which may be made by Government on this behalf under section 22, the Deputy Commissioner may declare, that the dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him, shall entail a forfeiture of the right of succession of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under sub-sections (1), (2) and (3) shall be subject to such limitations as may be laid down by Government by rules made under section 22.

(7) All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar or Deputy Amildar and credited to the public treasury.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

8. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

(1) No person shall be eligible for appointment who—

General qualifications requisite in all cases.

(*a*) is not of the male sex;

(*b*) has not attained majority, that is, completed 18 years of age;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 22;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner or Assistant Commissioner, disqualifies him for holding the office;

(*f*) has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Mysore Land Revenue Code, IV of 1888, to be of general bad character.

Provided that, in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Succession in case of permanent vacancy.

(2) Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors, and subject also to any declaration made by the Deputy Commissioner under section 7, the succession in the case of a permanent vacancy (*a*) shall be regulated by the ordinary provisions of the personal law applicable to the last holder, provided that it shall devolve on a single heir and that where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (*b*) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 22 or on one of his heirs

according to the order of precedence laid down above. In the absence of persons entitled as above under (*a*) and (*b*), the Deputy Commissioner or Assistant Commissioner may appoint any other person duly qualified under sub-section (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favor of a person falling under (*a*) or (*b*), in the event of such person being forthcoming, at the end of three years from the date of the appointment.

Appointment in case of temporary vacancy.

(3) Where an office has become vacant by the dismissal, removal or suspension of the last holder, the Deputy Commissioner or Assistant Commissioner may, if he thinks proper, direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of such holder; but in making the selection the directions contained in sub-section (2) shall as far as possible be conformed to.

Provided that, when the officer who has been dismissed or removed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-section (2).

Procedure to be adopted when successor is a minor.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the successor of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as successor, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as successor under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions contained in sub-section (2).

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

9. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an alienated village, the holder of such village shall fill up the vacancy in accordance with the principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.

If the appointment be not made by the holder of the village within such time as may be allowed by the Deputy Commissioner or Assistant Commissioner, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

Succession in the case of offices other than patel, shanbhog, etc.

10. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari shall devolve in accordance with the law or custom applicable thereto; and, in the absence of any such law or custom, in accordance with the provisions of sections 8 and 9, respectively.

Suits for offices, for recovery of emoluments and for registry as successor.

11. (1) Any person may sue before the Deputy Commissioner or Assistant Commissioner for any village office in an unalienated or alienated village or for recovery of the emoluments of any such office, on the ground that he is entitled under sections 8, 9 or 10 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner or Assistant Commissioner to be registered as successor of the last holder of any such office.

No suit for declaratory decree.

Provided that no suit shall be entertained for a mere declaratory decree.

Rejection of plaint when claimant is ineligible for appointment or for registry.

(2) If, at any time before the completion of the trial of a suit preferred under this section, it appears to the Deputy Commissioner or Assistant Commissioner that the claimant is not eligible for appointment on any of the grounds referred to in sub-section (1) of section 8, he shall pass an order rejecting the plaint.

Procedure in case of non-payment of *miras* to nirganti, toti or talari.

12. On a complaint being preferred by a nirganti, toti or talari of non-payment of the *miras* payable under rules framed under section 22 by any holder of land or other person from whom such contribution is due, the Amildar or the Deputy Amildar of the taluk or sub-taluk shall hold a summary enquiry in the manner laid down in the Land Revenue Code, IV of 1888, and pass a decision thereon; provided that the complaint is made in the year in which such *miras* is due or in the year immediately following it.

Power of Deputy Commissioner in regard to transfers of suits.

13. The Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner, or transfer any suit from his own file or that of an Assistant Commissioner to the file of another Assistant Commissioner, for disposal.

Every enquiry to be deemed a judicial proceeding.

14. (1) Every enquiry under this Regulation shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Procedure with regard to suits, etc.

(2) The procedure to be followed with regard to suits, appeals and applications under this Regulation shall be regulated by rules made by Government under section 22.

Taxation of costs and execution of decrees and orders.

15. Decrees and orders passed in suits and enquiries under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 22, and shall be executed in accordance with rules to be made under the said section and the corresponding provisions of the Land Revenue Code.

Jurisdiction of Civil Courts barred.

16. No Civil Court shall exercise jurisdiction in respect of any claim to succeed to, or to the possession of, any village office, or the emoluments thereof, or any question as to the rate or amount of such emoluments; but, when the claim is as between different members of a hakdar's family of patel or shanbhog in respect of land entered in the Government records or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court.

Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner, and Deputy Commissioner.

17. (1) From every decree or order passed under this Regulation by an Assistant Commissioner and from every order passed by the holder of a commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner; and from every decree or order passed by a Deputy Commissioner, an appeal shall lie to the Revenue Commissioner. The decision on appeal of the Deputy Commissioner or the Revenue Commissioner, as the case may be, shall be final.

Second appeal in certain cases and appeal to Government.

Provided that, in cases of dismissal or removal under section 7 and in suits under section 11, a second appeal from the decision on appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final, and provided further that nothing contained in this Regulation shall affect the right of appeal to Government under section 210, sub-section (2), of the Mysore Land Revenue Code.

Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

(2) From every decision or order passed by an Amildar or Deputy Amildar under sub-section (2) of section 7 or section 12, and from every order passed by the holder of a commission exercising any of the powers of an Amildar or a Deputy Amildar under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner or Assistant Commissioner, whose decision shall be final.

18. If the officer to whom an appeal is presented under this Regulation happens to be the officer who in another capacity passed the decision which is appealed against, he shall report the fact to the authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law.

Disposal of appeal by officer who passed original order.

19. The Government and any revenue officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any enquiry or the proceedings of any revenue officer subordinate to it or him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the Chief Court. The provisions of the Land Revenue Code, IV of 1888, as regards revision of proceedings and reference to the Chief Court shall apply to revision of proceedings and reference to the Chief Court under this section.

Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.

Explanation.—For purposes of revision of orders passed by the holder of a commission under sub-section (3) of section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar or a Deputy Amildar, according as he is invested with the powers of an Assistant Commissioner or an Amildar or a Deputy Amildar, respectively, under the abovementioned sub-section.

20. Subject to the provisions contained in section 21, every suit instituted, appeal presented and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed although limitation has not been set up as a defence.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

Provided that, in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Notwithstanding anything herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto shall have expired before the completion of the said three years.

Limitation in case of suits the cause of action for which accrued before the commencement of this Regulation.

21. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, so far as may be, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Application of certain sections of the Limitation Act.

22. (1) The Government may, by notification in the official Gazette, make rules not inconsistent with this Regulation in regard to the following:—

Government may make rules on certain subjects.

(i) the division, grouping and amalgamation of villages and the selection of persons to fill the offices newly created under section 6;

(ii) the holding of enquiries and other matters coming under sections 6 and 7, and the hearing of appeals under section 17;

(iii) matters falling under sections 8 and 9;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5;

(v) the procedure to be followed in filing and in disposing of suits, appeals and applications and the registers to be maintained in connection therewith;

(vi) the execution of decrees and orders and the taxation of costs;

(vii) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof;

(viii) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them;

(ix) the custody, production and transfer of the accounts and other records kept by holders of village offices;

(x) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto at the time of the passing of this Regulation shall, so far as they are consistent with this Regulation, be deemed to have been made under the preceding sub-section.

Until such rules are made, existing rules to be in force.

SCHEDULE A.

Form of commission to be issued to the holder of an alienated village or to one of several holders thereof or to an agent under section 7 (3).

SEAL.

The Government of Mysore is pleased to confer on you (holder, one of several holders, or agent, as the case may be) power to punish village officers in the village of.....to the extent described below :—

[Here enter description.]

The within delegated power is vested in you during the pleasure of and subject to recall by the Government of Mysore.

Secretary.

SCHEDULE B.

Description.	Period of limitation.	Time from which period begins.
1. Suit for the recovery of a village office or of the emoluments of any such office.	Three years	When the plaintiff is entitled to the possession of the office or the recovery of the emoluments, or the date of the order which would become final, if no such suit be brought.
2. Appeal to the Deputy Commissioner or Assistant Commissioner.	Thirty days	The date of the decree or order appealed against.
3. Appeal to the Revenue Commissioner.	Ninety days....	Do do
4. Application for execution of decree or order.	One year	(1) The date of decree or order. (2) (Where there has been an appeal) the date of the final decree or order of the appellate court. (3) (Where there has been a review of judgment) the date of the decision passed on review. (4) (Where there has been a revision of the decree or order) the date of the decree or order passed on revision. (5) The date of the last application for execution made in accordance with this Regulation.
5. Application for review of decree or order.	Ninety days....	The date of the decree or order sought to be reviewed.
6. Applications not otherwise herein provided for.	Do	When the right to apply accrues.

V. P. MADHAVA RAO,
Dewan of Mysore.